

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WISCONSIN

STATE OF WISCONSIN,

Plaintiff,

v.

10 - 13 Club, et al.

(See attached list for names of  
all settling defendants),

Defendants.

Case No. 3:94-cv-00248-bbc

COMPLAINT

The State of Wisconsin (the "State"), by its attorneys, James E. Doyle, Attorney General, and Lorraine C. Stoltzfus, Assistant Attorney General, at the request of the Wisconsin Department of Natural Resources ("DNR"), brings this complaint against the above-named defendants and alleges as follows:

NATURE OF THE ACTION

1. This is a civil action for monetary relief to remedy the release and threatened release of hazardous substances into the environment at a facility known as the Holtz and Krause Landfill Site ("the Site") located in Wausau, Marathon County, Wisconsin. The State seeks to recover costs incurred and to be incurred by conducting response actions at the Site.

2. The Site is a 57-acre, privately-owned landfill which accepted waste from municipalities and businesses throughout

central Wisconsin. It was in operation from 1957 through 1980, and was never properly closed.

3. Periodic sampling of monitoring wells at the Site has revealed groundwater contamination. The Site poses a current and long-term environmental threat which must be addressed.

4. The State brings this action pursuant to § 107 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 ("CERCLA"), as amended by the Superfund Amendments and Reauthorization Act of 1986, 42 U.S.C.A. § 9607.

#### JURISDICTION AND VENUE

5. This court has jurisdiction over this action pursuant to 28 U.S.C.A. § 1331 and CERCLA § 113(b), 42 U.S.C.A. § 9613(b).

6. Venue is proper in this district under 28 U.S.C.A. § 1391(b) and CERCLA § 113(b), 42 U.S.C.A. § 9613(b) because the claims stated in this complaint arose in this judicial district.

#### PARTIES

7. Plaintiff is a sovereign state having its principal office at the State Capitol, Dane County, Madison, Wisconsin. Pursuant to sec. 165.25, Wis. Stats., the Attorney General of Wisconsin has the statutory authority to bring this action on behalf of the State of Wisconsin, Department of Natural Resources.

8. Each of the defendants is a "person" within the meaning of 42 U.S.C.A. § 9601(21).

9. Each of the defendants were owners or operators of the Site, and/or generated wastes containing hazardous substances and those wastes were disposed of at the Site, and/or transported

wastes containing hazardous substances for disposal at the Site.

CLAIM FOR RELIEF

10. The site is a "facility" within the meaning of CERCLA § 101(9), 42 U.S.C.A. § 9601(9).

11. "[H]azardous substances" within the meaning of § 101(14) of CERCLA, 42 U.S.C.A. § 9601(14) have been found at the Site.

12. The waste materials disposed of by defendants at the Site contain hazardous substances as defined in § 101(14) of CERCLA, 42 U.S.C.A. § 9601(14).

13. At all times relevant hereto, there were releases or threatened releases of hazardous substances into the environment, with the meaning of § 101(22) of CERCLA, 42 U.S.C.A. § 9601(22), at the Site.

14. The State has incurred and will continue to incur response costs at the Site as that term is defined in § 101(25) of CERCLA, 42 U.S.C.A. § 9601(25), in responding to releases or threats or releases of hazardous substances at or from the Site.

15. The defendants are within the class of liable persons described in § 107(a) of CERCLA, 42 U.S.C.A. § 9607(a), because they were owners or operators of the Site, and/or generated wastes containing hazardous substances and those wastes were disposed of at the Site, and/or transported wastes containing hazardous substances for disposal at the Site.

16. The actions of the State at the Site and the costs incurred and to be incurred by the State are not inconsistent with the National Contingency Plan, 40 C.F.R. Part 300.

17. Pursuant to § 107 of CERCLA, 42 U.S.C.A. § 9607, the defendants are liable to the State for all response costs incurred and to be incurred by the State in connection with the Site.

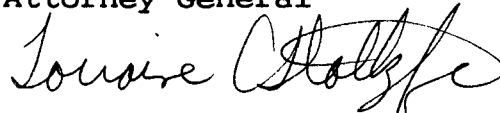
PRAYER FOR RELIEF

WHEREFORE, the plaintiff State of Wisconsin requests judgment as follows:

1. A money judgment against defendants for all response costs incurred by the State in connection with the Site;
2. A declaratory judgment that defendants are liable for all future response costs that may be incurred by the State in connection with the Site;
3. The State's costs and fees of this action; and
4. Such other and further relief as is appropriate.

Dated at Madison, Wisconsin, this 24<sup>th</sup> day of March, 1994.

JAMES E. DOYLE  
Attorney General



LORRAINE C. STOLTZFUS  
Assistant Attorney General  
State Bar No. 1003676

Attorneys for Plaintiff

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**NOTICE TO COUNSEL:**

To enable judges and magistrate judges of the court to evaluate possible disqualification or recusal, counsel for a private (non-governmental) business, company, or corporation shall submit at the time of initial pleading this statement of corporate affiliations and financial interest.

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Case No. \_\_\_\_\_

DISCLOSURE OF CORPORATE AFFILIATIONS  
AND FINANCIAL INTEREST

\_\_\_\_\_ makes the following disclosure:  
(name of party)

1. Is said party a subsidiary or affiliate of a publicly owned corporation?

YES \_\_\_\_\_

NO \_\_\_\_\_

If the answer is YES, list below and identify the parent corporation or affiliate and the relationship between it and the named party:

2. Is there a publicly owned corporation, not a party to this case, that has a financial interest in the outcome?

YES \_\_\_\_\_

NO \_\_\_\_\_

If the answer is YES, list the identity of such corporation and the nature of the financial interest:

\_\_\_\_\_  
(signature of counsel)

Date: \_\_\_\_\_